

In The United States District Court
For The Western District of Pennsylvania

FILED

Ernesto Santiago
Plaintiff

'06 NOV -6 A9:47

Civil Action No.: 05-153E

Judge McLaughlin
Magistrate Judge Baxter

v.

CLERK
U.S. DISTRICT COURT

James F. Sherman, Warden
and Bureau of Prison Staff
Defendants

Plaintiff's Response to (DOC #33), Curing Procedural Defects in Plaintiff's Motion

And Now Comes Ernesto Santiago the Plaintiff in this matter Pro-se argues this matter should be dismissed with prejudice under ^{Not} FRCP 12(b)1,6 and/or 56 as AUSA Skirtich ask. This court has jurisdiction over this matter as it occurred while plaintiff was at F.C.I. McKean in PA. and Plaintiff has stated a claim upon which relief can be granted; the payment of \$925.00 for the confiscation, destruction of Trial Transcripts, Sentencing Transcripts, Etc. That occurred at F.C.I. McKean. Plaintiff will be asking your honor to allow him to cure (2) opening inmates legal mail outside their presence; (3) delaying and/or preventing a phone call with Plaintiff's attorney concerning an appeal on another case. (*Defendants memorandum of Law in Support of Defendants Motion to Dismiss, or in the Alternative, Motion for Summary Judgement).

Santiago will let your honor decide if She believes defendant's *(1) by losing a significant amount of legal papers during an institutional lock-down should be dismissed.

Santiago believes that (1) goes hand in hand with (4) confiscation of and/or not allowing Mr. Santiago to keep legal materials, including Trial and Sentencing Transcripts, Docket Sheet, and others, in his possession.

Your honor knows the history of issues that occur at F.C.I. McKean and even though Plaintiff did try to exhaust some of the issues mentioned he was put on (g.nc) "got nothing coming status" Something known at F.C.I. McKean by inmates who file administrative remedies and law suits. It is clear that someone took advantage of Santiago's legal papers outside his presence and for sure no one will ever know, but the fact/s here show not only the violation of prisoners rights but as you can see in the Declaration of **James Sherman (Warden) page 2, #5, where he "decided to combat any problems by prohibiting inmates from keeping legal material regarding their criminal convictions in their personal possession"**. Warden Sherman violated our rights, inmates rights because there is no case law that says anything about our Trial and Sentencing Transcripts, Legal Briefs, Docket Sheets etc. being kept from us. **B.O.P. program statement 1351.05** mentions P.S.I. and SOR. Something if not this court the Supreme court should clarify because we should be allowed to litigate our cases till the last day. **If AUSA Skirtich in page 16, 17 is so worried arguing P.S. 1351.05** then he should lobby Congress to build those inmates who assisted the government are gang members, have financial resources etc. a private prison/s. In almost 13 years I've never heard of such violations of our rights and although I am Pro-se I am knowledgeable of right and wrong. Should all the 5K.1 law books, cases, sheps etc. be taken out of the law library? I believe not so. Then how can I ask my Unit Team to review my 3 day Trial Transcripts when open house is only for 1 hour as Warden Sherman said in his Declaration page #3, that would be if I had my trial transcripts.

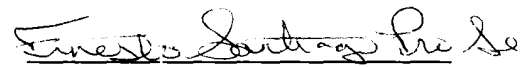
Certificate of Service

I here certify that on October 18, 2006 I mailed via first class prepaid postage a copy of the original and the original: Plaintiffs Response to (Doc #33, curing procedural defects in plaintiffs motion To;

CLERKS Office
P.O. Box 1820
Erie, PA. 16507

Paul E. Skirtich
Assistant U.S. Attorney
U.S. P.O. and Court House
700 Grant St. Suite 4000
Pittsburg, PA. 15219

Ernesto Santiago
Pro-Se 10-18-2006


United States Penitentiary
P.O. Box 305
Jonesville, VA. 24263-0305

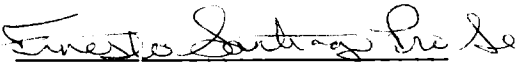
Certificate of Service

I here certify that on October 18, 2006 I mailed via first class prepaid postage a copy of the original and the original: Plaintiffs Response to (Doc #33, curing procedural defects in plaintiffs motion To;

CLERKS Office
P.O. Box 1820
Erie, PA. 16507

Paul E. Skirtich
Assistant U.S. Attorney
U.S. P.O. and Court House
700 Grant St. Suite 4000
Pittsburg, PA. 15219

Ernesto Santiago
Pro-Se 10-18-2006


United States Penitentiary
P.O. Box 305
Jonesville, VA. 24263-0305

10/18/06

RE: 05-153E

Dear Clerk,

Enclose find an
Original of : Plaintiff's Response to (Doc # 33)
Curing Procedural Defects in Plaintiff's Motion
for filing with this Court. Can you please
stamp-file this Document and return
in S.A.S.E. Thank you.

Sincerely,

Ernie Santag